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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

JUDITH HERZOG,)	CASE NO. CV-10-78-BLG-RFC-CSO
)	
Plaintiff,)	
)	NOTICE OF REMOVAL
-vs-)	
)	
ESIS, INC.,)	
)	
Defendant.)	

Defendant, ESIS, Inc. (hereafter ESIS), pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby gives notice of removal of this matter from the Montana Thirteenth District Court, Yellowstone County, Montana. In support of this petition, Defendant states as follows:

A. Process, Pleadings and Orders Served Upon Defendant.

1. Plaintiff filed suit on May 3, 2010 in the Montana Thirteenth Judicial District

Court, Yellowstone County, Montana against Defendant in the matter entitled *Judith Herzog v. ESIS, Inc.* The matter is now pending in said court under Cause No. DV 10-799.

2. A copy of the Complaint and Summons was served on ESIS, Inc. through its registered agent on June 4, 2010. Copies of all pleadings, process and orders served on ESIS are attached hereto as **Exhibit A**.

B. Nature of the Action

3. This action arises out of Plaintiffs' claims for damages arising under Montana's Unfair Trade Practice Act, M.C.A. § 33-18-242 as a result of the claims handling by ESIS of a third-party claim made against PSC Industrial Outsourcing, LP, PSC Industrial, Inc. arising out of an automobile accident that occurred on February 8, in Yellowstone County. The claim alleges that ESIS violated Montana's UTPA by failing to made advance payments of Plaintiff Judith Herzog's medical expenses she associated with the accident. The claim alleges violations of M.C.A. Section 33-18-201(1), (4), (6), and (13).

4. The amount in controversy in this action exceeds the sum of \$75,000, exclusive of interest and costs. The amount in controversy is not apparent from the Complaint. Accordingly, Defendant inquired and counsel for Plaintiff has indicated that they are seeking in excess of \$75,000 in this action. A copy of Plaintiff's documentation of the amount in controversy, received on June 25, 2010, is attached

hereto as **Exhibit B**.

5. Plaintiff allege ESIS is liability for damages including emotional distress, attorneys fees, and expenses as well as punitive damages.

C. Diversity of the Parties

6. Plaintiff is believed to be a resident and citizen of Yellowstone County within the State of Montana. Defendant ESIS is a corporation organized and existing under the laws of the state of Pennsylvania, with its principal place of business in Pennsylvania, and is considered a citizen of Pennsylvania. Diversity exists between the parties.

7. Based on diversity of citizenship and the amount in controversy, this Court has jurisdiction under 28 U.S.C. § 1332.

8. Removal is proper in this case pursuant to 28 U.S.C. § 1332(a)(1).

9. Pursuant to 28 U.S.C. § 1446(d), ESIS hereby provides notice that the Notice of Removal, attached as **Exhibit C**, was mailed for filing in the Thirteenth Judicial District Court on June 30, 2010.

DATED this 30th day of JUNE, 2010.

/s/ Susan Moriarity Miltko
Susan Moriarity Miltko
Attorneys for Defendant